



Applicant: **Nadia M. Corlett**
Title: **ULTRA-COMPACT AND HIGHLY PORTABLE ABSORBENT ARTICLES**
Serial No.: **09/560,246**
Filed: **April 26, 2000**
Group Art Unit: **3761**
Examiner: **Jacqueline F. Stephens**
Agent's File Reference: **9911-01**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313

Sir:

Introductory Comments

An OFFICE ACTION was issued November 4, 2004, in the subject application, which action was made final (hereinafter "the Office Action"). A NOTICE OF APPEAL with the requisite fee and extension of time was filed by appellant on March 5, 2005, the Office date of receipt of which by the Patent Office is March 7, 2005 [see M.P.E.P. § 1206]. A PETITION FOR EXTENSION OF TIME is submitted herewith, extending the deadline for the filing of this paper to July 7, 2005.

Appellant hereby files this APPEAL BRIEF in triplicate. Payment for the \$250 fee set forth in 37 C.F.R. § 1.17(c) is attached. This APPEAL BRIEF sets forth the authorities and arguments on which appellant relies to maintain the appeal, and includes sections corresponding to each of the relevant subparagraphs outlined in 37 C.F.R. § 1.192(c).

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1. Real Party in Interest

The real party of interest in the subject application is Nadia M. Corlett.

2. Related Appeals and Interferences

There are no related appeals and interferences known to appellant or the appellant's agent of record.

3. Status of Claims

The status of the claims is as follows:

Claims 2, 3, 6-8, 10-15, 17, 18, 21, and 22: canceled; and

Claims 1, 4, 5, 9, 16, 19, 20, and 23-26: pending.

Each of the pending claims, i.e., claims 1, 4, 5, 9, 16, 19, 20, and 23-26, stands rejected and is on appeal in the application.

4. Status of Amendments

No amendment was filed after final rejection.

5. Summary of Invention

A copy set of the claims on appeal is included as in Appendix A. The claims on appeal include two independent claims, namely, claims 1 and 16. Claims 4, 5, 9, 23, and 24 depend from claim 1, and claims 19, 20, 25, and 26 depend from claim 16.

This summary focuses on the independent claims and provides reference to the specification and the drawings of the application, including reference numerals.

Independent Claim 1

Claim 1 recites a highly compact and portable absorbent article 18 that includes:

a single absorbent article 10 that is compressible and reconfigurable... ;
and
a packaging 16 for retaining said single absorbent article in said
compressed condition [see FIGS. 9 and 10; and page 5, lines 9 to
11]

said absorbent article 10 occupying a volume of space that is reduced by at
least about 30% when said absorbent article is reconfigured from
said normal condition to said compressed condition; and [see
FIGS. 5 and 7; FIGS. 6 and 8; and page 3, lines 20 to 24]
said packaging 16 for retaining said single absorbent article 10 when said
article is in said compressed condition [see FIGS. 9 and 10],
thereby yielding an individually packaged compact and portable
absorbent article 18 [see FIGS. 9 and 10; and page 5, lines 9 to 11].

Independent Claim 16

Claim 16 recites a method for packaging an absorbent article 10 to yield an individually
packaged single absorbent article 18 that is compact and portable. The method includes:

providing a packaging 16;
providing an absorbent article 10 ... ;
reconfiguring the absorbent article 10 such that the volume of space is
reduced by at least 30% [see FIGS. 5 and 7; FIGS. 6 and 8; and
page 3, lines 20 to 24];
retaining the absorbent article 10 when reconfigured within said packaging
16, thereby yielding an individually packaged compact and
portable absorbent article 18.

6. Issues

Issue A: Whether claims 25 and 26 are patentable under 35 U.S.C. § 112, second
paragraph.

Issue B: Whether claims 1, 4, 5, 9, 16, 19, 20, 23, and 24 are patentable under 35 U.S.C.
§ 102 in view of U.S. Patent No. 6,321,513 to Meixner.

7. Grouping of Claims

Claims 1 and 16 are independent claims. Claims 4, 5, 9, 23, and 24 depend from claim 1, and claims 19, 20, 25, and 26 depend from claim 16. However, based on the rejections outlined in the final Office Action, the claims may be grouped as follows:

Group I: claims 1, 4, 5, 9, 19, 20, 23, and 24; and

Group II: claims 25 and 26.

Appellant respectively states in accordance with 37 C.F.R. § 1.192(c)(7) that the claims of this group do not stand or fall together. Group I claims include claims rejected in view of prior art, and Group II includes claims that have NOT been rejected in view of prior art. Accordingly, Appellant believes the claims of Group II are separately patentable from the claims of Group I.

For a single representative claim from each group, Appellant suggests the Board select claim 1 from Group I and claim 25 from Group II.

8. Argument

Due to the nature of the rejections set forth in the Office Action, subparagraphs (i), (iv), and (v) of 37 C.F.R. § 1.192(c)(8) do not apply. Accordingly, each of the issues recited in Section 6 above will be addressed under 37 C.F.R. § 1.192(c)(8)(ii) and (iii) only.

Issue A

Claims 25 and 26 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These rejections are respectfully traversed.

The Claims

Claims 25 and 26 depend from claim 16 which includes a step of:

reconfiguring the absorbent article such that the volume of space is reduced by at least 30%.

Claim 25 recites that:

said reconfiguring step includes rolling the absorbent article.

Claim 26 recites that:

said reconfiguring step includes folding the absorbent article.

Errors in Rejection

The Office Action states that “[i]t is unclear if application is merely claiming a reducing in size (length and width) or a reduction in volume.” According to 37 C.F.R. § 1.75(c), “[o]ne or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application.” As they are dependent claims, claims 25 and 26 necessarily further limit the reconfiguring step of claim 16. And as the reconfiguring step of claim 16 recites that volume is reduced, then it follows that claims 25 and 26 recite a further limitation in reducing the volume of the absorbent article, namely, rolling and folding.

The Office Action incorrectly interprets the following remarks made by application in a response to an earlier office action, which remarks follow for convenience:

As mentioned above, the Minton et al. patent fails to teach or suggest reconfiguring an absorbent article so that the volume is reduced by at least 30%, as recited in claims 1 and 16. In contrast, the Minton et al. patent discloses folding a sanitary napkin along fold axes (152, 153). By doing so, the overall length of the sanitary napkin is inherently reduced. However, Minton et al. are silent as to the extent of their reduced length. Furthermore, Minton et al. are also silent as to *reducing the volume* of their sanitary napkin.

While it is inherent that folding an article reduces its length, it is not inherent that folding an article reduces its volume any appreciable amount. For example, does folding a blanket for storage imply that the blanket's volume is reduced? Not at all. Indeed, it is more logical that the volume actually increases due to space (i.e., air gaps) between the folded layers.

Minton et al. discuss compression at column 6, lines 27 and 28, of their patent, which is cited in the Office Action. However, their discussion focuses on compression of the individually wrapped sanitary napkins subsequent to assembly and packaging. In other words, the Minton et al. patent does not teach the compression of the sanitary napkin *prior* to packaging. Accordingly, subsequent compression of Minton et al.'s individually wrapped sanitary napkin “can cause air trapped within the wrapper 160 to rupture the releasable seals 200” (see column 6, lines 29 and 30).

These remarks were made to illustrate the point that without specifically mentioning a reduction in volume, folding does not inherently reduce the volume of an article. However, claim 16

specifically recites a reduction in volume; therefore, when the reconfiguring step includes folding as recited in claim 26, then it follows that the folding causing a reduction in volume. As an aside, as the Office Action discusses folding exclusively (i.e., the quoted applicant remarks makes no mention of rolling), it is unclear why claim 25 directed to rolling was included in this rejection.

In view of the foregoing, it is respectfully submitted that claims 25 and 26 particularly point out and distinctly claim the subject matter which applicant regards as the invention and that these claims satisfy the requirements of 35 U.S.C. § 112, second paragraph.

Issue B

Claims 1, 4, 5, 9, 16, 19, 20, 23, and 24 are patentable under 35 U.S.C. § 102 in view of U.S. Patent No. 6,321,513 to Meixner. These rejections are respectfully traversed.

Independent Claim 1

Claim 1 recites a highly compact and portable absorbent article that includes:

a single absorbent article that is compressible and reconfigurable... ; and
a packaging for retaining said single absorbent article in said compressed
condition

said absorbent article occupying a volume of space that is reduced by at
least about 30% when said absorbent article is reconfigured from
[a] normal condition to [a] compressed condition; and
said packaging for retaining said single absorbent article when said article
is in said compressed condition, thereby yielding an individually
packaged compact and portable absorbent article.

Independent Claim 16

Claim 16 recites a method for packaging an absorbent article to yield an individually packaged single absorbent article that is compact and portable. The method includes:

- providing a packaging ;
- providing an absorbent article ... ;
- reconfiguring the absorbent article such that the volume of space is reduced by at least 30%;
- retaining the absorbent article when reconfigured within [a] packaging, thereby yielding an individually packaged compact and portable absorbent article.

Cited Reference

U.S. Patent No. 6,321,513 to Meixner discloses a method in which a packaging material can be used to compress a product during or after a packaging procedure or to exert a uniform multi-side or all-side pressure on a packaged commodity. Meixner states that the method is advantageous in the packaging of diapers, hygiene paper, sanitary pads or the like. Meixner also states that the volume of diapers can be compressed by up to half in accordance with his method. (See column 4, lines 23–31.)

Errors in the Rejection

The primary error in the rejection of claim 1 that the Patent Office does not establish a *prima facie* case of anticipation. More specifically, the Patent Office fails to provide a single reference that teaches or enables each of the claimed elements (arranged as in the claim), either expressly or inherently, as interpreted by one of ordinary skill in the art.

The Meixner patent fails to teach or suggest:

- a single absorbent article that is compressed and then packaged while compressed to yield an individually packaged absorbent article as recited in claim 1; and
- packaging a single compressed absorbent article within a single packaging to yield an individually packaged absorbent article as recited in claim 16.

Rather, Meixner claims that his method may be used to package a plurality of diapers. This is a conventional packaging system that is used to package a plurality of diapers into plastic packaging that is then either sold within the packaging or repackaged into cardboard packaging.

It is respectfully submitted that the Meixner patent fails to teach or suggest the absorbent article of claim 1 and the method of claim 16, and, therefore, that claims 1 and 16 are patentable. In addition, claims 2, 4, and 9 depend from claim 1, and claims 19 and 20 depend from claim 16. Each of these dependent claims recites additional features of the invention. For reasons analogous to those presented in relation to claims 1 and 16, it is respectfully submitted the Meixner patent also fails to teach or suggest the absorbent article of claims 4, 5, and 9, and the methods of claims 19 and 20, and, therefore, that claims 4, 5, 9, 19, and 20 are patentable.

Closing Comments

In view of the foregoing, it is respectfully submitted that the subject application, including claims 24-40, is in condition for allowance. Early notification of the same by the Board is respectfully requested.

Respectfully submitted,

Dated: July 5, 2005



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9. Appendix A—Claims on Appeal

1. An individually packaged, highly compact and portable absorbent article comprising:
a single absorbent article that is compressible and reconfigurable from a normal condition to a compressed condition; and
a packaging for retaining said absorbent article in said compressed condition;
said absorbent article having three dimensions at least one of which is reduced when said absorbent article is in said compressed condition;
said absorbent article occupying a volume of space that is reduced by at least about 30% when said absorbent article is reconfigured from said normal condition to said compressed condition; and
said packaging for retaining said single absorbent article when said article is in said compressed condition, thereby yielding an individually packaged compact and portable absorbent article.
4. An absorbent article as claimed in claim 1 wherein said packaging is configured to retain at negative pressure said compressed absorbent article.
5. An absorbent article as claimed in claim 1 wherein said absorbent article is reconfigured from said normal condition to said compressed condition by negative pressure.
9. An absorbent article as claimed in claim 1 wherein said absorbent article is a diaper.

16. A method for packaging an absorbent article to yield a single individually packaged absorbent article is compact and portable, said method comprising the steps of:

providing a packaging;

providing a single absorbent article, the absorbent article occupying a volume of space in three dimensions;

reconfiguring the absorbent article such that the volume of space is reduced by at least 30%;

retaining the absorbent article when reconfigured within said packaging, thereby yielding an individually packaged compact and portable absorbent article.

19. A method as claimed in claim 16 wherein said retaining step comprises the step of: packaging the reconfigured absorbent article at negative pressure.

20. A method as claimed in claim 16 wherein said providing step comprises the step of providing a disposable diaper.

23. An absorbent article as claimed in claim 1 wherein said absorbent article is reconfigured by rolling.

24. An absorbent article as claimed in claim 1 wherein said absorbent article is reconfigured by folding.

25. A method as claimed in claim 16 wherein said reconfiguring step includes rolling the absorbent article.

26. A method as claimed in claim 16 wherein said reconfiguring step includes folding the absorbent article.